

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

**SHARLENE DRYER and
ROBERT DRYER,**

Plaintiffs,

v.

**HORIZON BLUE CROSS
BLUESHIELD OF NEW JERSEY,**

Defendant.

Docket No. _____

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332 and 1441, the defendant, Horizon BlueCross BlueShield of New Jersey ("Defendant"), states as follows:

1. The Defendant is the respondent in an action styled "Sharlene Dryer and Robert Dryer v. Horizon BlueCross BlueShield of New Jersey," Case No. 2009-CV-1602, which was filed in the Circuit Court for Wilson County, Tennessee on May 12, 2009. Pursuant to 28 U.S.C. § 1446(a), copies of the summons and complaint filed in said action are attached hereto and made a part hereof by reference as collective **Exhibit 1** and constitute all process, pleadings and orders served upon the Defendant in such action.

2. Defendant was served with a copy of the Summons and Complaint on May 18, 2009. Pursuant to 28 U.S.C. §1446(b), this Notice of Removal has been timely filed. Plaintiffs' Complaint was the first paper from which Defendant could ascertain that Plaintiffs' case was removable, and this Notice of Removal has been filed within thirty (30) days of service of the Summons and Complaint on Defendant.

3. Venue is proper in this district and division pursuant to 28 U.S.C. § 1441(a)

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because this district and division embrace the place in which the removed action is pending, i.e., Wilson County, Tennessee.

4. This is a civil action over which may be removed to this Court by Defendant pursuant to 28 U.S.C. § 1441(b), in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

5. This civil action is for breach of contract and wrongful denial. The subject matter of this suit is a certain contract of insurance entered into between the Plaintiffs and the Defendant. Plaintiff Sharlene Dryer was denied benefits under the contract because Plaintiff's medical condition, Defendant contends, was preexisting.

6. There is complete diversity of citizenship among all parties to this action. Plaintiffs are residents of the City of Lebanon in Wilson County, Tennessee. *See* Complaint, Exhibit 1, ¶ 1. Defendant is a corporation formed under the laws of the State of New Jersey. Complaint, ¶ 2.

7. The matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs. Plaintiffs seek payment of their expended medical expenses in the amount of \$52,117.02. Complaint, ¶ 16. Additionally, pursuant to Tenn. Code. Ann. 56-7-105, Plaintiffs seek a 25% penalty of \$13,029.26 plus their attorney's fees. Complaint, ¶¶ 20, 21. While Defendant denies that any amount is due, it is clear from the face of the Complaint that the amount in controversy exceeds \$75,000.

8. Defendant also is filing a copy of this Notice of Removal with the Circuit Court of Wilson County, Tennessee, and it has given notice of the same to Plaintiffs as required by 28 U.S.C. § 1446(d).


9. Defendant specifically reserves all defenses including, without limitation, all

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defenses specified in Rule 12(b) of the Federal Rules of Civil Procedure.

WHEREFORE, the Defendant respectfully prays that the above-entitled action now pending against it in the Circuit Court for Wilson County, Tennessee be removed to the United States District Court for the Middle District of Tennessee.

Respectfully submitted,



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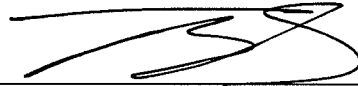
Attorneys for the Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been sent by U.S. Mail, postage prepaid, to:

Tim Hatton
104 ½ Public Square
Lebanon, TN 37087

this 17th day of June, 2009.

A handwritten signature in black ink, appearing to be 'TH', is written above a horizontal line.